United Nations S/2003/344

Security Council

Distr.: General
20 March 2003

Original: English

Letter dated 17 March 2003 from the Permanent Representative of South Africa to the United Nations addressed to the Secretary-General

I have the honour to forward herewith, in my capacity as the representative of the current Chairman of the African Union, the communiqué issued by the Central Organ of the Mechanism for Conflict Prevention, Management and Resolution at its ninetieth ordinary session at the ambassadorial level, held at Addis Ababa on 17 March 2003 (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Dumisani Shadrack **Kumalo**
Ambassador
Permanent Representative of the Republic
of South Africa to the United Nations

03-28946 (E) 210303

Annex to the letter dated 17 March 2003 from the Permanent Representative of South Africa to the United Nations addressed to the Secretary-General

[Original: English and French]

Communiqué of the ninetieth ordinary session at ambassadorial level of the Central Organ of the Mechanism for Conflict Prevention, Management and Resolution

17 March 2003, Addis Ababa, Ethiopia

The Central Organ of the Mechanism for Conflict Prevention, Management and Resolution held its ninetieth ordinary session at ambassadorial level in Addis Ababa, Ethiopia, on Monday, 17 March 2003, to review the situation in the Central African Republic, following the coup d'état of 15 March 2003. The session took place under the chairmanship of Ambassador Baso Sangqu, Permanent Representative of South Africa to the African Union.

The meeting was briefed by a representative of the Commission on the recent developments in the Central African Republic.

Following its deliberations,

The Central Organ:

1. *Strongly condemns* the coup d'état which took place in Bangui, Central African Republican, on Saturday, 15 March 2003. In this regard, it recalls the total rejection and condemnation by the African Union of all unconstitutional changes of government, in conformity with the decisions and declarations adopted by the Algiers and Lomé Summits of July 1999 and 2000 respectively and the relevant provisions of the Constitutive Act of the African Union;

2. *Commends* the Chairperson of the African Union, the Interim Chairperson of the Commission, as well as the Chairmen of CEMAC and CENSAD for their prompt reaction to and condemnation of the unconstitutional change of government in the Central African Republic;

3. *Considers* that the coup d'état, which took place at a time when the process of commencing a national dialogue was under way, seriously undermines the efforts deployed by the leaders of CEMAC and CENSAD, with the support of the African Union and the United Nations, to find a lasting solution of the crisis in the Central African Republic. The Central Organ calls upon the perpetrators of the coup in that country to take immediate steps to reinstate the democratically elected government of the country;

4. *Recommends* in the interim and in conformity with the letter and spirit of the Lomé Declaration, the suspension of the Central African Republic from participating in the activities of the policy organs of the African Union, until such a time that constitutional rule is restored in the country;

5. *Appeals* to all member States, African Union partners, and the wider international community, to strongly support the efforts of the countries of the

region and the African Union to restore constitutional order in the Central African Republic;

6. *Urges* that the safety of the regional force deployed by the CEMAC in the Central African Republic be guaranteed. The Central Organ appeals to the international community to support the regional efforts led by President El Hadj Omar Bongo of the Gabonese Republic, and the efforts of CENSAD, to restore peace and security in the Central African Republic, including, inter alia, through the commencement of the envisaged national dialogue in the country;

7. *Calls upon* the regime in the Central African Republic to ensure the safety of the civilian population in the country and warns that they will be individually and collectively held accountable for any violations of the human rights of the civilian population in the country;

8. *Requests* the Interim Chairperson of the Commission to urgently establish contacts with all the parties in the Central African Republic, with a view to reviewing the modalities for a speedy return to constitutional order. In this regard, the Central Organ urges him to immediately dispatch his Special Envoy to the Central African Republic, Mr. Sadok Fayala, to the region to consult with the leaders of the region with a view to reviewing the situation and ways and means of bringing about a rapid and early resolution of the crisis;

9. *Further requests* the Chairperson of the African Union and the Interim Chairperson of the Commission to be actively seized with the situation in the Central African Republic.

United Nations S/2003/345

Security Council

Distr.: General
20 March 2003

Original: English

Report of the Secretary-General on the United Nations Political Office in Bougainville

Introduction

1. The present report is submitted pursuant to the letter dated 19 December 2002 from the President of the Security Council to the Secretary-General, in which the Council, inter alia, endorsed a final extension, until 31 December 2003, of the mandate of the United Nations Political Office in Bougainville (UNPOB), and requested the Secretariat to produce a written report on the progress of the UNPOB mission, including a clear exit strategy for the completion of the mission and withdrawal, with a timetable and benchmarks that incorporate the holding of elections; the report was also to provide details on what specific steps UNPOB intended to take to meet each objective in its exit strategy on time. The present report reviews the activities of UNPOB since the last briefing in the Council on 21 November 2002, the remaining challenges and benchmarks to be achieved by the parties to the Bougainville Peace Agreement, and the exit strategy of the Office.

Weapons collection

2. At the last briefing, on 21 November 2002, the Security Council was informed that Bougainville ex-combatants had committed themselves to completing stage II of the weapons disposal plan by 24 December 2002. It did not prove possible, however, to achieve the goal by that date. With the start of the new year, efforts have been intensified to complete this stage. At a specially convened meeting of political and former combatant leaders held in Buka on 17 February 2003, an Action Plan for the Completion of Weapons Collection was adopted. The Plan focuses on the specific challenges to weapons collection in each district, identifies the actions that need to be taken to overcome them and the individuals who should be made responsible for taking those actions, and sets target dates for their completion; and makes a determination whether an involvement at the political level is required to address any outstanding issues.

3. At the end of February 2003, 80.2 per cent of Bougainville had reached stage II, and two districts had fully completed the process of disarmament. Of the total number of collected weapons, 7.4 per cent have been destroyed in advance of the formal launch of stage III. Since the implementation of the Action Plan started, the

03-28410 (E) 200303

parties have re-contained one trunk of weapons of the Bougainville Resistance Force (about 95 stolen weapons remain to be re-contained), held one stage I containment ceremony and scheduled more stage II containment ceremonies across the island.

4. The Bougainville Resistance Force (BRF) and the Bougainville Revolutionary Army (BRA) have each scheduled their own separate meetings around the end of March 2003 to discuss the issue of the final fate of the collected weapons. Following the adoption of their respective positions they will meet together to reach a unified position on the matter.

5. A major obstacle to the achievement of reasonably complete weapons disposal in Bougainville is the non-involvement of Mr. Francis Ona and his Me'ekamui Defence Force (MDF) in the peace process. The Bougainville parties believe that ex-combatants associated with MDF have played a role in the de-containment of collected weapons. MDF seems to be intent on acquiring weapons, either by purchasing them from other military factions or by other means. At the same time, persons claiming Me'ekamui affiliation have been spreading disinformation about the Peace Monitoring Group, UNPOB, and the whole peace process.

6. The parties to the Bougainville Peace Agreement are engaged in trying to secure Francis Ona's participation in the peace process. Appeals to this end have been made at various times by the Minister for Inter-Government Relations with responsibility for Bougainville, Sir Peter Barter; the Governor of the Province, John Momis; the President of the Bougainville People's Congress, Mr. Joseph Kabui; and other political leaders as well as UNPOB. The aim of this campaign is to receive from Mr. Francis Ona a clear commitment to refrain from any actions or policies that could have the effect of disturbing or impeding the implementation of the Peace Agreement, especially in weapons disposal. Unfortunately, Mr. Francis Ona remains non-committal. In this context, UNPOB deeply regrets the death of one MDF combatant in a recent shoot-out outside Arawa township. UNPOB will work with others concerned to ensure that this unfortunate incident has no impact on the peace process.

7. UNPOB is seeking to identify ways of facilitating and expediting the completion of weapons collection at stage II in the shortest possible time. Accordingly, UNPOB will continue, with valuable support from the Peace Monitoring Group, to monitor the fulfilment of the commitments assumed in the Action Plan. In this context, and as part of its regular use of Radio Bougainville, UNPOB is arranging a round-table discussion on the progress of the peace process. This will involve the participation of the Governor and other political and military leaders. These discussions will focus on the importance and urgency of weapons collection and the certification of the completion of stage II containment which UNPOB will be required to make to clear the way for the entry into force of the constitutional amendments.

Constitutional aspect of the peace process

8. The development of the new Bougainville Constitution is a central part of the implementation of the Peace Agreement. The work of the Bougainville Constitutional Commission has been progressing well. After its establishment in September 2002, this body began a process of consulting the people, developing recommendations and considering successive versions of the draft of the

Constitution. An official first draft was released on 1 February 2003 for island-wide consultations. On the basis of the feedback, a second draft has been prepared and will soon be made available for consideration by the Bougainvilleans living on the island and offshore. It will also be examined by the Joint Assembly of the Bougainville Interim Provincial Government and the Bougainville People's Congress.

9. Following a review by a bipartisan Ministerial Committee and the National Executive Council of the Government of Papua New Guinea, the draft will be returned to the Bougainville Constitutional Commission for its consideration. Provided the Commission is able to complete the required internal consultations, the draft Constitution could be finalized by the end of April 2003 and submitted for adoption by a Constituent Assembly of Bougainville. The Constituent Assembly cannot be established, however, until the completion of stage II of weapons disposal has been verified. Assuming that the required certification can be made by UNPOB by the time the work on the Constitution is complete, the Bougainville Constitutional Commission expects that elections could be held before the end of 2003.

The role of the national government

10. Under the leadership of the Prime Minister, Sir Michael Somare, the Government of Papua New Guinea has demonstrated its commitment to implementing the Bougainville Peace Agreement. The Minister for Inter-Government Relations with responsibility for Bougainville, together with other cabinet members, pays regular visits to the island to assess the situation, and to develop personal relations with Bougainville leaders and former combatants, so as to contribute to an expeditious resolution of the remaining challenges to the peace process. As a result of their visit on 18 and 19 February 2003, the National Government and the Bougainville parties signed a memorandum of understanding that established a mechanism for consultation between them on all aspects of the implementation of the autonomy arrangements, including the transfer of powers, functions and resources, and the settlement of disputes.

11. The establishment of this mechanism, ahead of the required time, is an indication of the confidence the two sides have in each other and of their mutual commitment to the Peace Agreement, in particular to the conclusion of stage II of the weapons disposal plan. The decision by the National Government to withdraw its Defence Force from the island on 26 March 2003 is another indication of that confidence.

Contribution of the Peace Monitoring Group and the donor community

12. At the beginning of 2003, the Peace Monitoring Group informed the parties to the Peace Agreement of its intention to cease all operations on the island on 30 June 2003, and to withdraw thereafter. During its deployment, the Peace Monitoring Group has provided a valuable contribution to the peace process including, among other things, transportation by helicopter of former combatants to meetings, logistical support to weapons collection and meetings of the Peace Process

Consultative Committee, collection of information in regard to developments in the interior of the island, facilitation of communication between UNPOB and former combatants, and provision of peace-related information to the island's population.

13. Regional donors, especially Australia, New Zealand and the United Kingdom of Great Britain and Northern Ireland, have given valuable and sustained support to the Bougainville peace process. Their contributions have facilitated almost all of the meetings held in connection with weapons disposal, and they have renewed their commitment to continue to help with not only the implementation of the Action Plan for the Completion of Weapons Collection but also the holding of the stage III consultations, and to provide input to community development projects.

14. UNPOB is striving to ensure that, by the time the Peace Monitoring Group withdraws, weapons disposal will be so far advanced that it will no longer need this level of Monitoring Group support. At this time, however, it seems unlikely that the process will be completed by 30 June. Therefore, UNPOB is of the view that, prior to the withdrawal of the Monitoring Group, it would be helpful if the parties to the Agreement reviewed the progress of weapons disposal and, if necessary, considered replacing the Peace Monitoring Group with an alternative arrangement to assist UNPOB to fulfil its mandate and start withdrawing by the end of 2003. It should be pointed out that no provision for additional resources has been made for UNPOB to take on the logistical and other support currently provided by the Peace Monitoring Group.

Objectives of the mandate

15. The ultimate objective of the UNPOB mandate is to verify that at stage II of the weapons disposal plan the collected weapons have been placed in secure, double-locked containers under its supervision. Together with the resolution by the parties of the issue of Mr. Francis Ona, agreement on the final fate of the weapons and the creation among Bougainvilleans of a feeling of security, verification by UNPOB will trigger the entry into force of the constitutional amendments. Those amendments will open the way for the election of an autonomous Bougainville government, expected to be held before the end of 2003. With the establishment of the first autonomous government, the mandate of UNPOB will be fulfilled and the Office closed.

16. As the end of the United Nations political mandate in Bougainville approaches, UNPOB is looking to the United Nations Development Programme (UNDP) and other United Nations agencies to take the lead in promoting activities on the island that could facilitate the reintegration and rehabilitation of former combatants and, more generally, the restoration of community services and infrastructure. The predecessor of the Bougainville Peace Agreement, the Lincoln Agreement, did call for rehabilitation and reintegration, but this aspect has not kept pace with weapons disposal. It was never built into the Peace Agreement as a strategy to accompany weapons disposal. In this context, the UNDP cocoa project should be commended for its success in offering employment to many Bougainvilleans, including ex-combatants. The UNDP programme in Bougainville is in a transition phase, and UNPOB is holding consultations with UNDP aimed at ensuring that its valuable contribution to post-conflict peace-building, including the improvement of governance on the island, is sustained.

Observations

17. Bougainville is a small but very complex society with a great diversity of clans, sub-clans and language groups. The divisions, suspicions and mistrust created by the war have only served to compound that complexity. Given also the extremely low level of the island's development, it is not difficult to understand the slow pace of change in the society. Yet there has been change. In accordance with the Lincoln Agreement, the former warring factions have chosen to resolve their differences peacefully. With the help of the Office's bridge-building, brokering and facilitating role, they have significantly advanced the process of change that has been under way since that Agreement was signed. Their leaders have a unity of purpose and action, although that has not yet permeated the whole society, which still bears the deep scars of war. The peace process is undoubtedly stronger than it has ever been before, but it still needs nurturing. In order to solidify peace in Bougainville, I would wish to appeal to the donor community to continue its valuable assistance to the island following the expected departure of the Office at the end of 2003.

18. I would also wish to pay tribute to the sterling efforts of my Representative, Noel Sinclair, and his small team — all of whom are working with great dedication, in testing conditions, to help consolidate peace and stability in Bougainville.

United Nations S/2003/346

Security Council

Distr.: General
20 March 2003

Original: English

Letter dated 17 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 2 January 2003 (S/2003/22).

The Counter-Terrorism Committee has received the attached third report from El Salvador submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-29356 (E) 270303 280303

Annex

Letter dated 19 February 2003 from the Permanent Representative of El Salvador to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

[Original: Spanish]

With reference to your note, dated 25 November 2002, I have the honour to attach herewith the second supplementary report of the Republic of El Salvador to the report submitted pursuant to Security Council resolution 1373 (2001) (see enclosure).

Also attached is a copy of legislative decree No. 918, published in issue No. 148, tome 356, of the *Diario Oficial*, of 14 August 2002.*

(*Signed*) Víctor Manuel **Lagos Pizzati**
Ambassador
Permanent Representative

* Enclosures are on file with the Secretariat and are available for consultation.

Enclosure

Second report of the Republic of El Salvador supplementary to the report submitted pursuant to Security Council resolution 1373 (2001)

Replies to the observations of the Counter-Terrorism Committee on the report submitted by El Salvador pursuant to resolution 1373 (2001)

1. Implementation measures

1.1 The Counter-Terrorism Committee (CTC) has agreed on further questions and comments for the consideration of the Government of El Salvador with regard to the implementation of the resolution, as set out in this section.

1.2 Effective implementation of paragraph 1 of the resolution requires that there be provisions in place specifically criminalizing the wilful provision or collection, by any means, directly or indirectly, of funds by the nationals of El Salvador or in its territory with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts. For an act to constitute an offence as described above, it is not necessary that the funds actually be used to carry out a terrorist offence (see article 2, paragraph 3, of the International Convention for the Suppression of the Financing of Terrorism). The acts sought to be criminalized are thus capable of being committed even if:

- **The only related terrorist act takes place or is intended to take place outside the country;**

  or

- **No related terrorist act has actually occurred or is attempted.**

Please explain whether these requirements will be dealt with by reform of the Penal Code or by the introduction of a special law criminalizing the financing of terrorism, as mentioned in the report.

El Salvador considers that, given the nature of the different norms and provisions (penal, administrative and procedural) that must be implemented to combat the complex phenomenon of terrorism, special legislation should be enacted for this purpose, since it would otherwise be necessary and imperative to undertake a comprehensive review of all the various legal texts related to this area, such as the Banking Act, the Money-Laundering Act, the Penal Code, the Code of Penal Procedure, and a large number of financial and administrative laws, which will have to be amended or reformed.

1.3 Paragraph 1 of the resolution requires also an appropriate monitoring mechanism to ensure that funds and other economic resources collected by non-profit organizations (e.g. religious, charitable or cultural organizations) are not diverted for purposes other than the stated purposes, particularly for financing of terrorism. Please outline any such provisions existing in El Salvador. If there are none, please explain how El Salvador intends to meet this requirement.

With regard to the monitoring mechanism to ensure that funds and other economic resources collected by non-profit organizations are not diverted for purposes other than the stated purposes, particularly for the financing of terrorism, no special legal provisions have been adopted in El Salvador in this area and monitoring is carried out only by the Ministry of the Interior. It is, however, proposed to introduce norms in implementation of the recommendations of the Financial Action Task Force (FATF) and the Group of Experts on Money-Laundering of the Inter-American Drug Abuse Control Commission of the Organization of American States (CICAD/OAS), adopted in Mexico, D.F., in July 2002, concerning the regulation and registration of non-profit organizations.

1.4 Subparagraph 1 (c) of the resolution requires a State to freeze without delay the funds and other financial assets or economic resources of terrorists and terrorist-related persons and entities. The supplementary report states that, on the basis of article 25 of the Money-Laundering Act, the Attorney-General of the Republic may order the freezing of bank accounts of persons accused of the crimes covered by that Act. Article 6 of the same Act appears not to include the crime of terrorism. Moreover, the Money-Laundering Act deals with proceeds of crime only, though the funds used for financing of terrorism may also be of a legal origin. Therefore, the Money-Laundering Act does not appear to meet fully the requirement of this paragraph. Please explain whether article 180 of the Code of Criminal Procedure provides for the freezing of funds in the situation where the funds are suspected of being linked to terrorism, even if the funds are not of illegal origin and no terrorist act has yet been committed. If not, how does El Salvador intend to meet this requirement?

With reference to the observation that article 6 of the Money-Laundering Act "appears not to include the crime of terrorism" for the purposes of freezing without delay the funds and other financial assets or economic resources of terrorists and terrorist-related persons and entities, we note that there has been an erroneous interpretation of that legal precept, since the aforementioned article 6 states: "**... This Act covers any criminal activity that gives rise to money-laundering . .**". It is therefore not so much a restrictive list of crimes that are to be considered as giving rise to money-laundering, but a non-exhaustive listing of some of the criminal activities that are indicative of such crimes, since the article expressly states: "**... particularly the following, where applicable ... and any act of concealment or legalization of money or assets derived from criminal activities ...**".

With reference to the observation that El Salvador's Money-Laundering Act "deals with **proceeds of crime** only, though the funds used for financing of terrorism may also be of a legal origin", it should be pointed out that the term "**preventive seizure**", used both in article 25 (2) of the Money-Laundering Act and in article 180 of the Code of Criminal Procedure, covers not only the proceeds of crime but also all assets derived from the crime of money-laundering and from **the criminal activity that gave rise to or preceded it**, which may also include assets that are subject to confiscation or which may be used as evidence.

"**Preventive seizure**" should be understood as a procedural step through which the assets or items that can be used as evidence are introduced into the criminal proceeding and the evidence thus secured, or, where the assets or items are

confiscated by the State, as the consequence of the legal act of confiscation, which is thus carried out. As a means of securing the evidence, seizure temporarily affects the capacity to dispose of assets that may be used as evidence, whomsoever their owner. As a means of effecting a possible confiscation, it also temporarily removes the power to transfer the asset, in order to ensure that a future compensatory judgement can be enforced.

This procedural step of **preventive seizure** therefore includes the instruments, objects and proceeds of the crime (source and laundering of assets). The category covers: (a) the items used to commit the crime, which are the means employed to attempt or to carry out the punishable act; (b) the items intended for use in the commission of a crime, which are the means prepared by the author to achieve his criminal purpose, but which were not actually used; (c) the proceeds of the crime, which are the objects created, processed, changed or acquired through the crime; and (d) the items that represent the proceeds of a crime, which are those that, while not the direct proceeds therefrom, nevertheless represent the indirect proceeds from the criminal activity.

In conclusion, both article 25 of the Money-Laundering Act and article 180 of the Code of Criminal Procedure are **unreservedly applicable** in taking action to freeze without delay the funds and other financial assets or economic resources of terrorists and terrorist-related persons and entities, even when such funds are of legal origin and no terrorist acts have actually been committed, since, from the moment that they have been used or were intended for use in engaging in criminal activity, they are liable to be confiscated or seized preventively.

1.5 Please explain how El Salvador could deal with a request from another State to freeze funds that are not proceeds of crime, but are of legal origin, and yet are suspected of being used, or intended for use, for a terrorist act.

Concerning the manner in which El Salvador could deal with a request from another State to freeze funds that are not proceeds of crime, but are of legal origin, and yet are suspected of being used, or intended for use, for a terrorist act, as explained in the paragraph above, if the funds to be frozen have been used, are to be used or were intended for use in such criminal activity, they are liable to be confiscated or seized preventively, regardless of whether their source is a legitimate economic activity or whether they are derived from drug trafficking or other criminal activity. In such case therefore, article 25 of the Money-Laundering Act and article 180 of the Code of Criminal Procedure are also **fully applicable** in freezing without delay funds linked to terrorist acts or terrorist organizations.

1.6 Effective implementation of subparagraphs 2 (d) and (e) of the resolution requires the criminalization of the use of Salvadoran territory for the purpose of committing a terrorist act against other States or their citizens and for the purpose of financing, planning and facilitating terrorist acts against other States or their citizens, even if no related terrorist acts have actually been committed or attempted. Please explain what action El Salvador intends to take in this regard.

There is no legal impediment whatsoever in El Salvador to characterizing as a separate crime the use of the national territory for the purposes stated in paragraphs 2 (d) and (e) of the resolution under reference, since the legislative technique used

would be for such crimes to be considered an abstract danger and/or crimes that are anticipated. In other words, they would constitute crimes of intent, including acts that were not consummated, insofar as characterization as a crime would require only that the author's intention in committing the criminal act yields a result that is different from his act. Our criminal law also observes the principle of universality, under which Salvadoran criminal law is applicable to crimes committed by any person in a place not subject to the jurisdiction of El Salvador, provided that the crimes in question affect assets that are protected internationally by specific agreements or norms of international law or would lead to a grave violation of universally recognized human rights.

1.7 Please provide a progress report on the review of the definition in the Penal Code of "terrorist acts", as mentioned in relation to subparagraph 1 (b) in the supplementary report.

El Salvador, through the Inter-Agency Group against Terrorism (GRICTE), is currently reviewing the differing concepts of international terrorism and has reached a general consensus on what constitutes terrorism. However, as in the United Nations, debate is continuing on a universally acceptable definition.

1.8 Please explain which crimes are the "crimes of international significance" mentioned in article 28 of the Constitution and explain also whether that article has the effect that those crimes are not extraditable. In this regard please explain whether El Salvador would prosecute or extradite a foreign national who is alleged to have committed a terrorist act outside El Salvador against another State or its citizens and who is found in El Salvador, in order to fulfil the requirements of subparagraph 2 (e) of the resolution.

Article 28 of the Constitution of the Republic of El Salvador states:

"Art. 28 — El Salvador shall grant asylum to foreign nationals wishing to reside in its territory, except in those cases provided for in its laws and in international law. Such exceptions may not include persons who are persecuted solely for political reasons.

"Extradition shall be governed by international treaties and, in the case of Salvadorans, shall take place only if the corresponding treaty expressly provides for it and has been adopted by the legislative bodies of the signatory States. In any case, the principle of reciprocity must be upheld and Salvadorans must be guaranteed due process of law, as set forth in this Constitution.

"Extradition shall take place when the crime has been committed within the territorial jurisdiction of the requesting State, except in the case of crimes of international significance, and may in no case be imposed for political crimes, even if ordinary crimes are committed as a result.

"Ratification of extradition treaties shall require a two-thirds vote by the elected deputies."

Salvadoran legislation does not specifically define crimes that are considered to be of international significance; however, references to them in the Constitution of the Republic of El Salvador shall mean crimes defined as such in international treaties, including, drug trafficking, money-laundering, terrorism and crimes against humanity.

With regard to the second part of the question, requesting an explanation as to why, under article 28 of the Constitution, "crimes of international significance" are not extraditable, in accordance with the third paragraph of article 28, extradition shall take place when the crime has been committed in the territorial jurisdiction of the requesting State, ***except in the case of crimes of international significance***. What this means is that extradition shall take place when the crime has been committed within the territorial jurisdiction of the requesting State, except in the case of crimes of international significance, in which case territoriality shall not apply, but rather the relevant provisions of international treaties and conventions on such matters. Hence, crimes of international significance are indeed extraditable.

The Salvadoran Penal Code sets out the cases in which Salvadoran penal law shall apply. Under article 10, on the principle of universality, "Salvadoran penal law shall apply to crimes committed by anyone in a place that is not under Salvadoran jurisdiction, where such crimes cause harm to property that is internationally protected by specific agreements or norms of international law or involve a serious violation of universally recognized human rights."

As for whether El Salvador would extradite the foreign nationals referred to in the question, indeed it would, in accordance with the provisions of article 28 of the Constitution of the Republic.

Consistent with the foregoing and with the provisions of the relevant treaties to which El Salvador is a party, El Salvador can indeed prosecute or extradite a foreign national who is found in El Salvador and is alleged to have committed a terrorist act outside El Salvador against another State. A person who commits a terrorist act would be considered to have committed a serious crime punishable by 5 to 20 years' imprisonment, in accordance with existing legislation.

1.9 Paragraph 3 of the resolution calls upon all States to become parties as soon as possible to all the relevant international conventions and protocols related to terrorism. The Counter-Terrorism Committee would appreciate receiving a report on the progress made by El Salvador in:

- **Becoming a party to the instruments to which it is not yet a party; and**
- **Enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.**

Regarding the steps taken by El Salvador to become a party to instruments to which it is not yet a party, on 12 February, the Legislative Assembly of El Salvador ratified the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism, respectively, and the respective instruments of ratification are expected to be deposited shortly. The technical analysis of the International Convention on the Physical Protection of Nuclear Material by the competent institutions is still under way, with a view to issuing a final opinion as to the feasibility of El Salvador becoming a party to this Convention.

The Legislative Assembly has also ratified the Inter-American Convention against Terrorism of the Organization of American States.

As for the measures taken by El Salvador to enact legislation and make other necessary arrangements to give effect to the instruments to which it has become a party, the Inter-Agency Group against Terrorism, established at the national level, is

evaluating how the relevant domestic legislation incorporates the provisions of the various international instruments relating to terrorism, and this should help to determine whether a specific law on terrorism or reforms in the current legislation are needed. The experiences of other countries are being taken into account in this evaluation. The Legislative Assembly of El Salvador is also making efforts in this area and, at some stage, will work with the Inter-Agency Group against Terrorism.

Additionally, a National Defence Act, one of whose objectives is to contribute to the maintenance of international peace and security, has been adopted.

1.10 Please provide the Counter-Terrorism Committee with a progress report on the enactment and implementation of the draft act on refugees.

The Act on the Determination of Refugee Status has been in effect since its publication in the *Diario Oficial*, issue No. 148, tome 356, of 14 August 2002 (see annex).

Both the Ministry of Foreign Affairs and the Ministry of the Interior, as the authorities responsible for implementing the Act, are making every effort to implement it properly. In this connection, an example of the measures they have taken is the training being offered, with cooperation from the Office of the United Nations High Commissioner for Refugees (UNHCR), to those directly involved in implementing it.

1.11 Subparagraph 3 (g) of the resolution requires States to ensure that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists. Please explain how El Salvador intends to meet this requirement, having regard both to article 28 of the Constitution and to article 21 of the Penal Code, which defines political crimes.

Under article 28 of the Constitution of the Republic of El Salvador, "extradition may in no case be imposed for political crimes". Article 21 of the Penal Code defines political crimes and ordinary crimes related to political crimes as follows: "For penal purposes, political crimes are considered to be crimes against the constitutional system and the existence, security and organization of the State. Ordinary crimes committed for political ends, with the exception of crimes against the life and physical integrity of heads of State or Government, shall also be characterized as political crimes. Crimes directly or immediately related to a political crime, or which constitute a natural and frequent means for preparing, carrying out or abetting such crime, shall be characterized as ordinary crimes related to political crimes", as defined in the Penal Code under Title XVII, Chapter I, on crimes against the constitutional system, including rebellion (article 340), sedition (article 341), and proposing or conspiring to commit rebellion or sedition, or apology therefor (article 342) and, under Title XVIII on crimes related to the existence, security and organization of the State, including attacks on the integrity and existence of the State (article 350), attacks on the unity of the State (article 351), treason (article 352), providing intelligence to a foreign State (article 353), incitement to war, reprisals or international enmity (article 354), disclosure of State secrets (article 355), spying (article 356), sabotage (article 357), disloyalty in Government negotiations (article 358), violation of treaties, truces, armistices or safe conducts (article 359) and violation of diplomatic immunity (article 360)."

El Salvador, within the framework established by the Constitution of the Republic, international treaties to which it is a party, and implementing legislation, will do its utmost to ensure that claims of political motivation are not recognized as grounds for denial of requests for extradition, since the national law provides a clear definition of what is meant by political crimes.

2. Assistance and guidance

2.1 The Counter-Terrorism Committee is eager to facilitate the provision of assistance and advice in connection with the implementation of the resolution. It encourages El Salvador to inform the Committee of any areas (other than those set out below) in which assistance or advice might be of benefit in taking forward the implementation of the resolution in El Salvador, or of any areas in which El Salvador might be in a position to offer assistance or advice to other States on the implementation of the resolution. The Counter-Terrorism Committee maintains a Directory of Information and Sources of Assistance in the field of Counter-Terrorism, on which all relevant information on available assistance is posted. It can be found on the Committee's web site (www.un.org/sc/ctc). The Committee's Technical Assistance Team is available to discuss any aspect of the provision of assistance and can be contacted as in paragraph 3.1 below.

2.2 The Counter-Terrorism Committee notes that the Government of El Salvador has requested assistance in connection with the implementation of the resolution in the following areas:

- **Training and technical assistance for personnel in implementing anti-terrorism laws;**
- **Financial cooperation and institution-building in the areas of customs and immigration law and police and law enforcement.**

2.3 At this stage, the Counter-Terrorism Committee will be focusing on requests for assistance that relate to "Stage A" matters. However, the assistance to be provided by one State to another on any aspect of the implementation of the resolution is a matter for agreement between them. The Committee would be grateful to be kept informed of any such arrangements and on their outcome.

El Salvador, through its armed forces, is a party to the Conference of American Armies, which, after 40 years of successful work, has become the main forum in which the armies of America exchange experiences in order to face the great challenges and common threats of the new millennium. A web site, www.redcea.org, has therefore been established to illustrate the scope of this international military organization and for the exchange of information and experiences among the armies that are members of the Conference.

The aim of the Conference of American Armies is the analysis, debate and exchange of ideas and experiences related to matters of common interest in the field of defence so as to heighten cooperation and coordination among armies and to contribute from the perspective of military thinking to the security and democratic development of the member countries.